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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,958	11/26/2001	Steven Barnes	11702/54246	6773

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EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,958

Applicant(s)

BARNES ET AL.

Examiner

Jessica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/12/04, Amendment.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 5/12/04. Claims 1-11 are pending. Claims 9-11 were withdrawn from further consideration in response to Applicant's election without traverse in the previous office action dated 8/13/03.
2. Claim 1 has been amended to state that the sleeve is removably heat shrunk and support can be found on p. 8, lines 7-8 of the specification. Claim 1 has also been amended to state that information regarding the most recent contents is provided on the sleeve and support can be found on p. 7, lines 13-15 of the specification.
3. The rejection of claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over Boitnott (US 6422029; of record) in view of the Admitted Prior Art in the specification of the present application and Nugent (US 5000804; of record), as set forth in paragraph 9 of the previous office action, has been withdrawn in light of Applicant's arguments pertaining to the Boitnott reference. Specifically, Boitnott teaches a heat-shrinkable labeling sleeve that is applied to the *service port* of a refrigeration system and therefore fails to teach or suggest a heat-shrinkable labeling sleeve that is applied at least partially about a *refrigerant tank*. See Applicant's arguments filed on 3/31/04, p. 5, 2nd paragraph.
4. The rejection of claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over the collective teachings of Culp (US 5922158; of record), Klauke (US 6063223; of record), and Brossia et al. (US 5275015; of record) in view of the Admitted Prior Art in the specification of the present application, Boitnott, and Nugent, as set forth in paragraph 11 of the previous office

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action, has been withdrawn now that Applicant is claiming a system comprising a refrigerant storage tank in addition to the heat-shrinkable sleeve.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Admitted Prior Art in the specification of the present application in view of Culp (US 5922158; of record) and Nugent (US 5000804; of record).

With respect to claim 1, it appears Applicant is teaching a refrigerant tank labeling system being known in the art. This system comprises a refrigerant storage tank and a labeling apparatus, which displays information such as the most recent contents in the tank (p. 3, lines 8-9), DOT regulations, MSDS information, etc. The labeling apparatus is usually attached to the tank in the form of a paper label, tie-on tag, or adhesive label (p. 5, 3rd paragraph; p. 6, 3rd paragraph). However, the Admitted Prior Art is silent as to the labeling apparatus being in the form of a heat-shrinkable sleeve that is removably heat shrunk at least partially about the tank with the sleeve also having a writeable portion for providing specific information regarding the contents.

A labeling apparatus for a large, cylindrical storage tank comprising a heat-shrinkable, plastic sleeve having information thereon is known, as taught by Culp. Specifically, Culp teaches a heat-shrinkable sleeve 20 being used to label a propane storage tank 10 (Figure 1). Culp teaches the sleeve being heat-shrinkable PVC that is shrunk about the tank and is provided with printed labeling information thereon, such as operating instructions 24 and a fuel level

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indicator 25 (column 3, lines 18-19 and 31 and 50-63). The reference teaches the sleeve being an improvement over prior art labeling methods because it eliminates the need for adhesive labels (abstract; column 1, lines 60-64; column 3, lines 53-56).

Therefore, it would have been obvious to the skilled artisan at the time the invention was made to apply the labeling apparatus of the Admitted Prior Art to the refrigerant storage tank in the form of a heat-shrinkable, plastic sleeve as an alternative to the paper labels, tie-on tags, and adhesive labels of the Admitted Prior Art because such a labeling apparatus is known in the storage tank art, as taught by Culp, wherein such an apparatus eliminates the need for separate fastening means (i.e. adhesive) for attaching the label to the tank (Culp; column 3, lines 53-56).

As for the sleeve being removable, the skilled artisan would have appreciated that the sleeve of Culp is capable of being removed from the storage tank, especially since both Culp and the present invention teach the heat-shrinkable sleeve being a PVC sleeve.

As for the sleeve having a writeable portion, one reading the Culp reference as whole would have appreciated that any portion of the PVC sleeve would be capable of being written on, be it desired or not. However, it would have been obvious to treat the PVC sleeve of Culp so as to make the surface appropriate for the handler to write content information thereon in addition to the printed information because a heat-shrinkable, PVC sleeve having a treated surface to allow for both printed and writeable portions for providing content information thereon is known, as taught by Nugent (column 2, line 39; column 3, lines 5-15 and 56), wherein the writeable portion allows for user-specific information to be recorded on the sleeve during handling.

Regarding claims 2-7, selection of the particular types of information to be printed on the sleeve would have been within purview of the skilled artisan at the time the invention was made depending on the type of information to be conveyed to the handler. However, the skilled artisan would have appreciated that the types of information recited in the present claims are well-known and conventional in the labeling art, especially when labeling containers/tanks housing potentially dangerous and harmful substances. Furthermore, the skilled artisan would have been motivated to print these various types of information on the sleeve because such labeling information is known in the refrigerant storage tank art, as taught by the Admitted Prior Art (p. 2-4). Also, the skilled artisan would have been motivated to print more than one type of information on the same sleeve because such is known in the art, as taught by Culp (column 3, lines 53-63) and Nugent (column 3, lines 5-10), wherein this eliminates the need for multiple labels.

Regarding claim 8, Culp teaches the sleeve having a thickness between about 0.002-0.003 mm (column 3, lines 26-27).

Response to Arguments

7. Applicant's arguments filed 3/31/04 have been fully considered but they are not persuasive.

8. On page 8 (paragraph 5) of the arguments, Applicant argues that there is no motivation to combine Culp and the Admitted Prior Art because Culp is directed to a propane tank and not a refrigerant storage tank. Applicant argues that propane tanks are always the same shape and are always filled with propane so there is no need for a removable label to be removed each time the tank is filled and replaced with a new label to indicate the new contents.

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The examiner appreciates that Culp is directed to a storage tank and not a refrigerant tank. However, the examiner relied on the Culp reference for its **broader** teaching of using a heat-shrinkable sleeve for labeling a storage tank in order to eliminate the need for adhesive labels (column 3, lines 53-56). Furthermore, the present claims are directed to a system wherein the labeling apparatus, or sleeve, need only be capable of being removed wherein the skilled artisan would have appreciated that the sleeve of Culp is capable of being removed as set forth in paragraph 6 above.

9. On page 9 of the arguments (paragraph 2), Applicant argues that Culp teaches the sleeve can be printed with indicia and operating instructions so as to eliminate the necessity for separate adhesively applied labeling (column 3, lines 57-59) but it does not require printing.

Whether or not the sleeve has such printing thereon is irrelevant. The reference teaches that the sleeve can have such printing thereon and therefore meets the claimed limitation.

10. On page 9 (paragraph 2) of the arguments, Applicant argues that Nugent fails to teach a relationship between a body fluid sample and a propane tank and therefore this reference should not be combined with Culp.

The examiner points out that Nugent was only used to show that heat-shrinkable sleeves having both printed and writeable portions for providing content information thereon is known in the labeling art.

11. On page 9 (paragraph 3), Applicant argues that Culp does not teach the plastic sleeve being appropriate for written content.

First, the present claims are directed to a system wherein the labeling apparatus, or sleeve, need only be capable of being written on, as set forth in paragraph 6 above, wherein one

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reading the Culp reference as whole would have appreciated that any portion of the PVC sleeve would be capable of being written on, be it desired or not.

However, as set forth in paragraph 6 above, it would have been obvious to treat the PVC sleeve of Culp so as to make the surface appropriate for the handler to write content information thereon in addition to the printed information because a heat-shrinkable, PVC sleeve having a treated surface to allow for both printed and writeable portions for providing content information is known, as taught by Nugent (column 2, line 39; column 3, lines 5-15 and 56), wherein the writeable portion allows for user-specific information to be recorded on the sleeve during handling.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica L. Rossi
Patent Examiner
Art Unit 1733



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